

### REMARKS

Reconsideration of the application is requested.

Claims 2-8, 11, 12, 18-26 and 31-35 are now in the application. Claims 26 and 31-35 are subject to examination and claims 2-8, 11, 12, and 18-25 have been withdrawn from examination. Claims 26, 31, 32, 33, and 35 have been amended. Claims 30 and 36 have been canceled to facilitate prosecution of the instant application.

Under the heading "Double Patenting" on page 6 of the above-identified Office Action, claims 26 and 30-35 have been provisionally rejected on the ground of non-statutory double patenting over claims 17-19 of co-pending application No. 11/164084.

Applicant appreciates the indication of a potential problem. Applicant will take appropriate action if the co-pending application issues as a patent.

Under the heading "Double Patenting" on page 7 of the above-identified Office Action, claims 26 and 30-35 have been provisionally rejected on the ground of non-statutory double patenting over claims 1-11 of co-pending application No. 11/877639.

Applicant appreciates the indication of a potential problem. Applicant will take appropriate action if the co-pending application issues as a patent.

Under the heading "Claim Rejections – 35 USC § 101" on page 8 of the above-identified Office Action, claim 26 and its dependent claims have been rejected under 35 U.S.C. § 101.

Claims 26, 31, 32, 33, and 35 have been amended to address this issue. Support for the changes to claim 26 can be found by referring to claims 30 and 36 and to paragraphs 123, 124, 127, 132, 134, and 135 of the specification. The changes to the dependent claims have been made so that they are consistent with claim 26. Claim 26 and support for the changes is listed below.

Claim 26 (currently amended). A method for tracking an effectiveness of an advertisement and for routing a telephone call placed in response to the advertisement, the method including:

placing an advertisement for a product or service on an ~~advertisement medium~~ internet, the advertisement including a telephonic number for contacting a vendor in order to obtain the product or service and the advertisement including an alpha-numeric identification code for indicating an effectiveness of the advertisement; **[claim 36, paragraph 123]**

~~enabling a potential customer to place a telephone call by entering the~~

~~telephonic number into a telecommunications network~~ enabling a potential customer to place a telephone call by entering the telephonic number from the advertisement into a keypad of a telephone communicating with the telecommunications network; **[claim 30]**

enabling the potential customer to enter the identification code from the advertisement into the telecommunications network by manually entering the identification code from the advertisement into the keypad of the telephone communicating with the telecommunications network; **[claim 30]**

having a routing device select a particular one of the plurality of vendors based on the telephonic number entered by the customer and based on bids made for routing the telephone call, and having the routing device route the telephone call through the telecommunications network to the particular one of the plurality of vendors; and **[paragraphs 123, 127, 132, 134]**

obtaining the identification code from the telecommunications network and ~~using the identification code to update a database, which is accessible by the particular one of the plurality of vendors, in order to obtain performance information indicating the effectiveness of the advertisement, in order to track the identification code, putting the identification code in an analysis system.~~  
**[paragraphs 124, 132]**

In order the steps are tied to the following machines: the Internet, a telephone, a telecommunications network, a routing device, and an analysis system. It is believed that the performance of the claimed method is sufficiently tied to machines defined in claim 26.

Applicant also wants to comment on the Examiner's statements relating to the preamble and the routing in the response to applicant's arguments on page 3 of the office action. Applicant acknowledges that the preamble is not given patentable weight. However the preamble recites the purposes of the invention. Since the preamble specifies that a purpose of the invention is to route a call and since there is a step of routing the call, that step of routing the call cannot be an insignificant extra-solution step. Rather, routing the call is a central aspect of the claimed invention.

Applicant has tried to adapt the wording to be acceptable to the Examiner. If the Examiner is still not convinced that the language complies with 35 USC § 101, applicant asks for specific guidance so that this issue can be resolved once and for all.

Under the heading "Claim Rejections – 35 USC § 103" on page 9 of the above-identified Office Action, claims 26, 30 and 33-36 have been rejected as being unpatentable over U.S. Patent No. 6,097,792 to Thornton in view of U.S. Patent No. 7,200,566 B1 to Moore et al. under 35 U.S.C. § 103.

Thornton teaches routing the call to a vendor based on the access number that the caller dialed and on the geographic location of the caller with respect to the geographic location of a broker, agent, dealership, branch or store of the subscriber or vendor.

Amended claim 26 includes a step of:

having a routing device select a particular one of the plurality of vendors based on the telephonic number entered by the customer **and** based on bids made for routing the telephone call, and having the routing device route the telephone call through the telecommunications network to the particular one of the plurality of vendors.

The Examiner has cited column 9, line 65 through column 10, line 12 of Moore et al. and has alleged that Moore et al. teach the previous version of the step copied immediately above. Applicant believes it should be clear that the newly worded step is not taught or suggested.

Applicant first points out that the bids in Moore et al. are not for routing a telephone call. The bids having nothing to do with routing a telephone call, but rather are made by merchants in an effort to sell goods. In particular, the bids are offers by merchants to sell televisions at particular prices (See column 9, line 52 through column 10, line 12). Therefore, even if the teachings in Moore

et al. and Thornton were combined in some manner, the invention as defined by claim 26 would not have been obtained.

Additionally, Applicant points out that even though Moore et al. teach that there is a response informing the merchant of an adverse bid, the routing of the call is solely based on the telephone number that is dialed either by the customer or that is automatically dialed by the customer's telephone (See column 9, line 65 through column 10, line 2). Once the telephone number is dialed, the call is routed solely dependent on the telephone number that was dialed by the customer or the customer's phone.

Further, the bids that are made by the merchants offering televisions for sale have nothing to do with how the telephone call is routed. Whether or not a call, which informs a merchant of an adverse bid, is made may depend on the occurrence of an adverse bid in which a merchant offers a television for sale. However, once the call is made, the routing of the call is solely based on the telephone number of the merchant. There is no teaching that the call could be routed to another merchant depending on a bid for routing calls. Applicant repeats that even if the teachings in Moore et al. and Thornton were combined in some manner, the invention as defined by claim 26 would not have been obtained.

Furthermore, applicant believes that one of ordinary skill in the art would not have even obtained a suggestion to have combined the teachings due to the

fact that Moore et al. do not teach routing a telephone call dependent on particular factors, for example, bids for routing the call. **Informing a merchant of a competing bid in which another merchant has offered a television for sale has nothing to do with the teaching in Thornton in which a customer dials a telephone number and that dialed call will be routed in a particular manner dependent on a factor such a geographic location.** Note that in Moore, the set of available merchants that may make bids is dependent on the geographic location of the customer. In other words, the geographic location of the customer simply determines the set of merchants that may make bids. However, once a telephone number is dialed manually by the customer or automatically the customer's phone, the call is routed solely dependent on the telephone number that was dialed. The routing is not dependent on a bid for routing the call or on any other factor.

The invention as defined by claim 26 could not have been suggested by Thornton and Moore et al.

Under the heading "Claim Rejections – 35 USC § 103" on page 10 of the above-identified Office Action, claims 31 and 32 have been rejected as being unpatentable over U.S. Patent No. 6,097,792 to Thornton in view of U.S. Patent No. 7,200,566 B1 to Moore et al. in view of U.S. Patent No. 6,898,571 to Val et al. under 35 U.S.C. § 103.

The invention as defined by claims 31 and 32 could not have been suggested for the reasons given above with regard to claim 28 and the teaching in Moore et al.

Thornton teaches routing the call to a vendor based on the access number that the caller dialed and on the geographic location of the caller with respect to the geographic location of a broker, agent, dealership, branch or store of the subscriber or vendor.

The code, which is taught by Val et al., is not used for routing a telephone call, but rather is used for enabling the customer to obtain a customized advertisement or certain enhancement such as coupons. The advertisement can be customized with respect to that customer or with respect to the geographic location of the customer.

Val et al. do not teach or suggest using an Identification code in an advertisement to select one of a plurality of vendors and to then route a telephone call to the selected vendor. Therefore, the invention as defined by claims 31 and 32 could not have been suggested by Thornton, Moore et al. and Val et al.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 26. Claim 26 is, therefore, believed to be patentable over the art. The dependent



claims are believed to be patentable as well because they all are ultimately dependent on claim 26.

In view of the foregoing, reconsideration and allowance of claims 26 and 31-35 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stermer LLP, No. 12-1099.

Respectfully submitted,

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